

Redwood National Park

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM
For Federal Year 2004**

I. Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR§26.5.

II. Objectives /Policy Statement (§26.1, 26.23)

Redwood National Park has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Redwood National Park has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Redwood National Park has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Redwood National Park to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Roads and Trails Foreman at Redwood National Park has been designated as the DBE Liaison Officer. In that capacity, the foreman is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Redwood National Park in its financial assistance agreements with the California Department of Transportation (Caltrans).

Redwood National Park has disseminated this policy statement to the Superintendent and all components of its organization. This statement has been distributed to DBE and non-DBE business communities that perform work for the park on DOT-assisted contracts by publishing this statement in general circulation publications including the two daily newspapers that serve the major communities in close proximity to the park and on the park's internet site at www.nps.gov/redw.

III. Nondiscrimination. (§26.7)

Redwood National Park will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, Redwood National Park will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

IV. DBE Program Updates (§26.21)

Redwood National Park will continue to carry out this program until the Redwood National Park has established a new goal setting methodology or until significant changes to this DBE Program are adopted. Redwood National Park will provide to Caltrans a proposed overall goal and goal setting methodology and other program updates by June 1 of every year.

V. Quotas (§26.43)

Redwood National Park does not use quotas in any way in the administration of this DBE program.

VI. DBE Liaison Officer (DBELO) (§26.45)

Redwood National Park has designated the following individual as its DBE Liaison Officer:

Mr. Richard Mayle
Roads and Trails Foreman
Redwood National Park
1111 2nd Street
Crescent City, CA 95531
(707) 464-6101 extension 5072
Richard_Mayle@nps.gov

In that capacity, Mr. Mayle is responsible for implementing all aspects of the DBE program and ensuring that Redwood National Park complies with all provisions of 49 CFR Part 26. Mr. Mayle has direct, independent access to the Superintendent concerning DBE program matters. The DBELO has a staff of several professional employees and two support personnel who will devote a portion of his/her time to the program. An organization chart displaying the DBELO's position in the organization is found in Appendix 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.

5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes Redwood National Park's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Superintendent on DBE matters and achievement.
9. Participates with contracting officer and project director to determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

VII. Federal Financial Assistance Agreement Assurance (§26.13)

Redwood National Park has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

Redwood National Park shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Redwood National Park of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C.1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII. DBE Financial Institutions

It is the policy of Redwood National Park to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make every reasonable effort to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBE Liaison Officer.

IX. Directory (§26.31)

Redwood National Park will refer interested persons to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at: www.dot.ca.gov/hq/bep.

X. Overconcentration (§26.33)

Redwood National Park has not identified any types of work in DOT-assisted contracts that have an overconcentration of DBE participation. If in the future Redwood National Park identifies the need to address overconcentration, measures for addressing overconcentration will be submitted to Caltrans for approval.

XI. Business Development Programs (§26.35)

Redwood National Park does not have a business development or mentor-protégé program. If the park identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted to Caltrans for approval.

XII. Required Contract Clauses (§26.13, 26.29)

Contract Assurance

Redwood National Park will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment

Redwood National Park will include the clause entitled *Prompt Payment for Construction Contracts* (Federal Acquisition Regulation 52.232-27) in each DOT-assisted prime contract. This clause fully complies with the requirements of 49 CFR Part 26.29 by requiring prime contractors to pay subcontractors for satisfactory performance of their contracts no later than seven days from receipt of each payment made to the prime contractor. The clause also requires the prompt return of retainage payments within seven days after the subcontractor's work is satisfactory completed.

XIII. Monitoring and Enforcement Mechanisms (§26.37)

The Contracting Officer at Redwood National Park will conduct all monitoring and enforcing of contractual obligations. The Contracting Officer will assign a Contracting Officer's Technical Representative to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award Redwood National Park will review the award documents for the portion of items each DBE and first tier subcontractor will be performing and the dollar value of

that work. With these documents the Contracting Officer will be able to determine the work to be performed by the DBEs or subcontractors listed.

Pre-construction Conference

A pre-construction conference will be scheduled between the Contracting Officer and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can begin on a subcontract, the local agency will require the contractor to submit a completed "Subcontracting Request," Exhibit 16-B of the LAPM or equivalent. When the Contracting Officer receives the completed form it will be checked for agreement of the first tier subcontractors and DBEs. The Contracting Officer will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed "Local Agency Bidder DBE Information," Exhibit 15-G. The "Subcontracting Request" will not be approved until any discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the Contracting Officer will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the "Local Agency Bidder DBE Information" will be compared to those listed in the completed Exhibit 16-I of the LAPM or equivalent. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor's total bid or \$10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.

The Contracting Officer will give the contractor a blank Exhibit 17-F, "Final Report Utilization of Disadvantaged Business Enterprises, First Tier Subcontractors" and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

Construction Contract Monitoring

The Contracting Officer will ensure that the staff (inspectors) knows what items of work each DBE is responsible for performing. Inspectors will notify the Contracting Officer immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the Contracting Officer will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor's response, the Contracting Officer will take appropriate

action: The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to the Caltrans Disadvantaged Business Enterprise Program. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

If the contract requires the submittal of a monthly truck document, the contractor will be required to submit documentation to the Contracting Officer showing the owner's name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers are checked by inspectors regularly to confirm compliance.

Providing evidence of DBE payment is the responsibility of the contractor.

Substitution

When a DBE substitution is requested, the Contracting Officer will request a letter from the contractor explaining why substitution is needed. The Contracting Officer must review the letter to be sure names and addresses are shown, dollar values are included, and reason for the request is explained. If the Contracting Officer agrees to the substitution, the Contracting Officer will notify, in writing, the DBE subcontractor regarding the proposed substitution and procedure for written objection from the DBE subcontractor in accordance with the Subletting and Subcontracting Fair Practices Act. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the Contracting Officer for local agency consideration.

If there is any doubt in the Contracting Officer's mind regarding the requested substitution, the Contracting Officer may contact the DLAE for assistance and direction.

Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

1. The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on Exhibit 17-F and will be

submitted to the DLAE attached to the Report of Expenditures. The Contracting Officer will compare the completed Exhibit 17-F to the contractor's completed Exhibit 15-G and, if applicable, to the completed Exhibit 16-B. The DBEs shown on the completed Exhibit 17-F should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed Exhibit 15-G when:

- There have been no changes made by the Contracting Officer.
- The contractor has not provided a sufficient explanation in the "comments" section of the completed Exhibit 17-F.

The explanation will be attached to the completed Exhibit 17-F for submittal. The Contracting Officer will file this in the project records.

The local agency's Liaison Officer will keep track of the DBE certification status on the Internet at www.dot.ca.gov/hq/bep and keep the Contracting Officer informed of changes that affect the contract. The Contracting Officer will require the contractor to act in accordance with existing contractual commitments regardless of de-certification.

The DLAE will use the PS&E checklist to monitor Redwood National Park's commitment to require bidders list information to be submitted to the park from the awarded prime and subcontractors as a means to develop a bidders list. This monitoring will only take place if the bidders list information is required to be submitted as stipulated in the special provisions.

Redwood National Park will bring to the attention of the DOT through the DLAE any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. County of Humboldt also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

XIV. Overall Goals (§26.45)

Amount of Goal

Redwood National Park's overall goal for the federal fiscal year FY2004 is the following: 14.1% of the federal financial assistance in DOT-assisted contracts. This overall goal is broken down into 50 % race-conscious and 50 % race-neutral components.

Methodology

Redwood National Park is located within two counties in California. The work to be completed under the provisions of this DBEP is all located within Humboldt County. Therefore, Redwood National Park has elected to utilize the County of Humboldt's FY2004 DBE goal, adjusted for

differences in the Redwood National Park contracting program--specifically the size of the anticipated project--as the basis for establishing its Base Figure of relative DBE availability. Redwood National Park also utilizes all aspects of Humboldt County's rationale and methodology. The full text of Humboldt County's "Overall Goals" from its revised DBE program of December 1, 2000 may be found in Appendix 2. Redwood National Park's calculations were performed using data from the County of Humboldt's FY2003/FY2004 "Weighted Base Figure" table also located in Appendix 2. Redwood National Park adjusted the base figure by selecting only Caltrans Pay Code Groupings which apply to its anticipated 2004 project. Utilizing that data, Redwood National Park calculated the weighted base figure utilizing the methodology described under the section entitled "Weighted Base Figure" of the Humboldt Plan. Specific calculations for Redwood National Park's DBE goal are shown in the table in Appendix 3.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Redwood National Park will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating DBE participation, which includes establishing contract specific goals on contracts with contracting possibilities, when needed to meet the park's overall project DBE goal. Redwood National Park uses the following race-conscious methods to increase DBE participation: making efforts to assure that bidding and contract requirements facilitate participation by DBEs and other small businesses; encouraging prime contractors to subcontract portions of the work; and providing technical assistance, and other support services to facilitate consideration of DBEs and other small business. We estimate that, in meeting our overall goal of 14.1 %, we will obtain 50 % from race-neutral participation and 50 % through race-conscious measures.

Process

In future fiscal years, the amount of overall goal, the method to calculate the goal and the breakout of estimated race-neutral and race-conscious participants will be required by June 1 in advance of the Federal fiscal year beginning October 1 in anticipation of Redwood National Park receiving DOT assisted funding. Before establishing the overall goal for FY2004, Redwood National Park will consult with the designated DLAE for Caltrans. Once the DLAE has responded with preliminary comments and the comments have been incorporated into the draft overall goal information, Redwood National Park will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the park's principal office for 30 days following the date of the notice, and informing the public that comments on the proposed program will be accepted for 45 days following the date of the notice. Advertisements in newspapers, minority focus media, trade publications and websites will be the normal media to accomplish this effort. The notice will include addresses to which comment may be sent and addresses where the proposal may be reviewed.

The overall goal resubmission to the Caltrans DLAE, will include a summary of information and comments received during this public participation process and Redwood National Park's responses.

We will begin using our overall goal by the time of the first solicitation for a DOT-assisted contract for the project.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

XV. Contract Goals (§26.51)

Redwood National Park will use contract goals to meet any portion of the overall goal Redwood National Park does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The contract work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractor and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

XVI Transit Vehicle Manufacturers (§26.49)

This section is not applicable to Redwood National Park.

XVII Good Faith Efforts (§26.53)

Information to be submitted

Redwood National Park treats bidders'/offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information with their bids.

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participation
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to part 26, included as Appendix 4 of this document.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Contracting Officer Rodney Roberson.

Redwood National and State Parks will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before a commitment to the performance of the contract by the bidder/offeror is made.

Administrative Reconsideration

Within 10 days of being informed by Redwood National Park that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Ms. Amy Caldwell, Chief of Administration
Redwood National Park
1111 2nd Street
Crescent City, CA 95531

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. Redwood National Park will send the bidder/offeror a written decision on

reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process can not be administratively appealed to Caltrans, FHWA or the DOT.

Good Faith Efforts when a DBE is Replaced on a Contract

Redwood National Park will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor is required to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain Redwood National Park's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, Redwood National Park's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

XVIII Counting DBE Participation (26.55)

Redwood National Park will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of material or supplies. See the Caltrans' Sample BoilerPlate Contract Documents. Also, refer to XIII. "After Contract Award."

XIX. Certification (§26.61 - 26.91)

Redwood National Park ensures that only DBE firms currently certified on the Caltrans directory will participate as DBEs in our program.

XX. Information Collection and Reporting

Bidders List

The Redwood National Park will utilize a bidder's list created and maintained by the County of Humboldt, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidder's list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

Monitoring Payments to DBEs

Prime contractors are required to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for

inspection upon request by any authorized representative of Redwood National Park, Caltrans, FHWA, or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by Redwood National Park to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to Caltrans

Redwood National Park – Final utilization of DBE participation will be reported to the DLAE using Exhibit 17-F of the Caltrans' LAPM.

Confidentiality

Redwood National Park will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local laws.

Richard T. Sermon
Superintendent, Redwood National Park

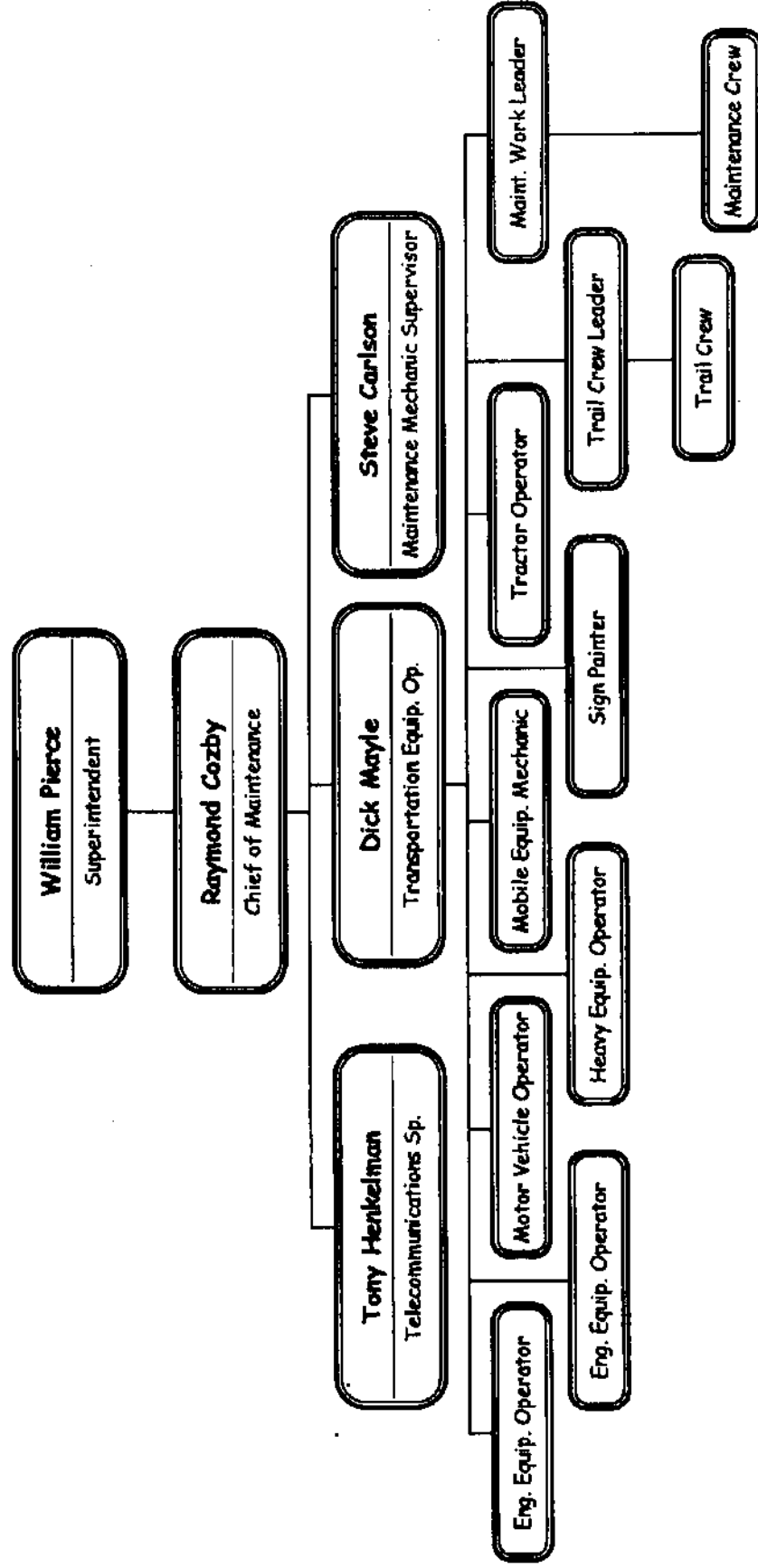
Date

This Disadvantage Business Enterprises Program is accepted by:

Signature of DLAE

Date

Division of Facility Management



November 24, 2003

Redwood National and State Parks

Roads & Trails Branch

Appendix 2

Excerpt from Disadvantaged Business Enterprise Program for Humboldt County

XIV Overall Goals (§26.45)

Amount of Goal

The County of Humboldt's overall goal for the Federal fiscal year FY 2001 is the following: 15.2% of the Federal financial assistance in FHWA-assisted contracts. This overall goal is broken down into 50% race-conscious and 50% race-neutral components.

Methodology

The following represents the County of Humboldt's proposed transportation improvement contracts and expenditures for Federal Fiscal Year FY 2001 by groupings of the Caltrans Pay Code Categories.

The County of Humboldt has elected to utilize the following methodology in establishing its Base Figure of relative DBE availability for Federal Fiscal year FY 2001:

$$\frac{\text{Number of ready, willing and able DBE firms}}{\text{Number of ALL ready, willing and able firms}} = \text{Base Figure}$$

For the numerator: *All DBE firms in the "bidders list" as maintained by the County of Humboldt, Department of Public Works*

For the denominator: *All firms in the "bidders list" as maintained by the County of Humboldt, Department of Public Works*

BIDDERS LIST: A "bidders list" was compiled from Department of Public Works Construction Engineering Division documents from the year 2000. Those documents include bids received from up to the three lowest bidders for the construction of various transportation improvement projects. The firms listed in the bids as DBE were used to compile the DBE portion of the "bidders list". Firms were associated with Caltrans Pay Code Groupings ("work categories") for similar types of work.

DBE BIDDERS: All firms listed on the "bidders list" were then cross-referenced to the Caltrans "calcert" file to identify their DBE status. The Calcert file is available on the internet at <http://www.dot.ca.gov/hq/bep/index.htm>. Since the Calcert file is a living database, it is important to note that all references to the Calcert file in this report pertain to the Calcert file downloaded from the above mentioned site on July 31, 2000.

COMPLETENESS OF DATA: The data used is subject to the following:

Construction Engineering Division Documents

- It is possible that some of the firms listed are no longer in business or wish to do business with the County of Humboldt.
- It is possible that this list does not represent all of the firms wishing to do business with the County of Humboldt.
- It is assumed that this list represents the most accurate and complete list of firms that have attempted (whether successful or not) to do business with County of Humboldt.

Calcert Data

- It is possible that not all of the firms who stated a desire to work in Humboldt County are willing to work for the County of Humboldt.
- It is possible that there are other firms who could qualify as a DBE and have not been certified as one. (lack of public outreach of the DBE program)
- It is possible that firms could have been added (or removed) from the list since the file was downloaded on July 31, 2000.

WEIGHTED BASE FIGURE: The County of Humboldt will calculate its Weighted Base Figure by first determining the number of ready, willing and able DBEs in its “bidders list” by “work category” and then dividing the number of DBEs by the total number of firms in the same “work category.” The resulting number is then multiplied by the percent of work to be done for that “work category.” The percent of work is based upon total contract value for the work category divided by the total of all contracts.

These calculations are repeated for all work categories and the sum of these calculations will be the weighted base figure. Through this method, the County of Humboldt can measure availability by the number of firms that have directly participated in, or attempted to participate in, the construction of the County of Humboldt’s transportation improvement projects.

The resulting formula for calculating the weighted base figure is as follows:

$$\text{Weighted Base Figure} = \left[\frac{\text{Percent of work in category X}}{\text{Total \# of all firms in category X}} \times \frac{\text{Total \# of DBE firms in category X}}{\text{Total \# of all firms in category X}} + \frac{\text{Percent of work in category Y}}{\text{Total \# of all firms in category Y}} \times \frac{\text{Total \# of DBE firms in category Y}}{\text{Total \# of all firms in category Y}} + \frac{\text{Percent of work in category Z}}{\text{Total \# of all firms in category Z}} \times \frac{\text{Total \# of DBE firms in category Z}}{\text{Total \# of all firms in category Z}} \right]$$

The above formula, X, Y and Z represent various work categories. The formula can be expanded or reduced to reflect the total number of work categories identified in the table of Proposed Transportation Improvement Contracts Federal Fiscal Year FY 2001.

Excerpt Ends Here

To avoid confusion, the portion of Humboldt County's 2001 DBE Program, which contained tables used in calculation of the Base Figure and DBE Goal, have not been included. The following table was excerpted from Humboldt County's revised DBU Program of federal fiscal year 2003/04 was used by Redwood National Park to calculate its Base Figure and DBE Goal for federal fiscal year 2003.

WEIGHTED BASE FIGURE County of Humboldt Proposed Transportation Improvement Contracts Federal Fiscal Year FY 2003/04						
Work Category	Caltrans Pay Code Groupings	Estimated Dollar Value	Part "A" % of Work by Work Category	Part "B" Total Number of Firms (DBE + non DBE)	Part "C" Total DBE firms	Part "D" Weighted DBE D=(A)(C/B)
Temporary Items	07xxxx	\$0	0.0%	27	6	0.0%
Traffic Control w/ Const Signs	12xxxx	\$57,350	2.5%	37	8	0.5%
Existing Facilities	15xxxx	\$26,625	1.2%	30	6	0.2%
Clear and Grub	16xxxx	\$17,000	0.7%	33	6	0.1%
Earthwork	19xxxx	\$681,700	30.0%	38	6	4.7%
Erosion Control	20xxxx	\$55,100	2.4%	16	6	0.9%
ASB, AB, etc.	22xxxx-29xxxx	\$180,220	7.9%	29	4	1.1%
Asphalt Concrete	37xxxx, 39xxxx	\$409,400	18.0%	19	2	1.9%
Concrete Pavement	40xxxx-42xxxx	\$0	0.0%	7	1	0.0%
Paving	49xxxx	\$0	0.0%	21	0	0.0%
Prestressed Concrete	50xxxx	\$0	0.0%	9	0	0.0%
Structure Concrete	51xxxx, 73xxxx	\$79,745	3.5%	32	5	0.5%
Reinforcing Steel	52xxxx	\$0	0.0%	19	1	0.0%
Shotcrete, Sealing	53xxxx, 54xxxx	\$0	0.0%	6	0	0.0%
Steel Structures	55xxxx, 75xxxx	\$600	0.0%	22	2	0.0%
Signs	56xxxx	\$0	0.0%	21	5	0.0%
Timber Structures	57xxxx	\$0	0.0%	14	1	0.0%
Clean, Paint Steel	59xxxx	\$0	0.0%	8	0	0.0%
Pipes, Appurtenances	62xxxx-70xxxx	\$38,000	1.7%	31	6	0.3%
Slope Protection	72xxxx	\$0	0.0%	35	7	0.0%
Fencing	80xxxx	\$6,000	0.3%	36	7	0.1%
Monuments	81xxxx	\$0	0.0%	9	1	0.0%
Markers, Delimiters	82xxxx	\$0	0.0%	16	4	0.0%
MBGR, Barriers	83xxxx	\$0	0.0%	23	6	0.0%
Pavement Striping, Markings	84xxxx, 85xxxx	\$5,600	0.2%	11	0	0.0%
Traffic Signals, Lighting	86xxxx	\$0	0.0%	7	0	0.0%
Miscellaneous	99xxxx	\$716,070	31.5%	19	1	1.7%
Design Consultants	87xxxx	\$0	0.0%	2	0	0.0%
TOTALS		\$2,273,410	100%			12.1%

Appendix 3
Redwood National Park 2004 DBE Goal

Work Category	Caltrans Pay Code Groupings	Percentage of Work by Category	Total Firms	Total DBE Firms	Weighted DBE
Clear and Grub	16xxxxx	5	33	6	0.9
Earthwork	19xxxxx	26	38	6	4.1
Erosion Control	20xxxxx	1	16	6	0.4
Asphalt Concrete	37xxxxx, 39xxxxx	30	19	2	2.0
Pipe, Appurtenances	62xxxxx, 70xxxxx	30	31	6	5.8
Slope Protection	72xxxxx	3	35	7	0.6
Miscellaneous	99xxxxx	5	19	1	0.3

Overall Goal (percentage)

14.1

Appendix 4.

APPENDIX A TO PART 26 -- GUIDANCE CONCERNING GOOD FAITH EFFORTS

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith effort mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided

regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.